JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.   *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Roger Solomon, 102 Idlewild Road Levittown, PA 19057

DEFENDANTS

New Jersey Transit Rail Operations, Inc., One Penn Plaza East Newark, NJ 07105

(b) County of Residence of First Listed Plaintiff   Bucks
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant   Essex
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Robert E. Myers, Esquire, Coffey Kaye Myers & Olley, Two Bala Plaza Suite 718, Bala Cynwyd, PA 19004, 610-668-9800

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- [ ] 1   U.S. Government Plaintiff
- [x] 3   Federal Question
  (U.S. Government Not a Party)
- [ ] 2   U.S. Government Defendant
- [ ] 4   Diversity
  (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff*
(For Diversity Cases Only)   *and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	[ ] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[ ] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
[ ] 110 Insurance	**PERSONAL INJURY**	**PERSONAL INJURY**	[ ] 625 Drug Related Seizure of Property 21 USC 881	[ ] 422 Appeal 28 USC 158	[ ] 375 False Claims Act
[ ] 120 Marine	[ ] 310 Airplane	[ ] 365 Personal Injury - Product Liability	[ ] 690 Other	[ ] 423 Withdrawal 28 USC 157	[ ] 376 Qui Tam (31 USC 3729(a))
[ ] 130 Miller Act	[ ] 315 Airplane Product Liability	[ ] 367 Health Care/			[ ] 400 State Reapportionment
[ ] 140 Negotiable Instrument	[ ] 320 Assault, Libel & Slander	Pharmaceutical Personal Injury		**INTELLECTUAL PROPERTY RIGHTS**	[ ] 410 Antitrust
[ ] 150 Recovery of Overpayment & Enforcement of Judgment	[x] 330 Federal Employers'	Product Liability		[ ] 820 Copyrights	[ ] 430 Banks and Banking
[ ] 151 Medicare Act	Liability	[ ] 368 Asbestos Personal Injury Product Liability		[ ] 830 Patent	[ ] 450 Commerce
[ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)	[ ] 340 Marine [ ] 345 Marine Product Liability			[ ] 835 Patent - Abbreviated New Drug Application [ ] 840 Trademark	[ ] 460 Deportation [ ] 470 Racketeer Influenced and Corrupt Organizations
[ ] 153 Recovery of Overpayment of Veteran's Benefits	[ ] 350 Motor Vehicle	**PERSONAL PROPERTY** [ ] 370 Other Fraud	**LABOR**	[ ] 880 Defend Trade Secrets Act of 2016	[ ] 480 Consumer Credit (15 USC 1681 or 1692)
[ ] 160 Stockholders' Suits	[ ] 355 Motor Vehicle Product Liability	[ ] 371 Truth in Lending	[ ] 710 Fair Labor Standards Act		[ ] 485 Telephone Consumer Protection Act
[ ] 190 Other Contract	[ ] 360 Other Personal	[ ] 380 Other Personal Property Damage	[ ] 720 Labor/Management Relations	**SOCIAL SECURITY**	[ ] 490 Cable/Sat TV
[ ] 195 Contract Product Liability	Injury	[ ] 385 Property Damage Product Liability	[ ] 740 Railway Labor Act	[ ] 861 HIA (1395ff) [ ] 862 Black Lung (923)	[ ] 850 Securities/Commodities/ Exchange
[ ] 196 Franchise	[ ] 362 Personal Injury - Medical Malpractice		[ ] 751 Family and Medical Leave Act	[ ] 863 DIWC/DIWW (405(g)) [ ] 864 SSID Title XVI	[ ] 890 Other Statutory Actions
REAL PROPERTY	**CIVIL RIGHTS**	**PRISONER PETITIONS**	[ ] 790 Other Labor Litigation	[ ] 865 RSI (405(g))	[ ] 891 Agricultural Acts
[ ] 210 Land Condemnation	[ ] 440 Other Civil Rights	**Habeas Corpus:**	[ ] 791 Employee Retirement Income Security Act		[ ] 893 Environmental Matters
[ ] 220 Foreclosure	[ ] 441 Voting	[ ] 463 Alien Detainee		**FEDERAL TAX SUITS**	[ ] 895 Freedom of Information Act
[ ] 230 Rent Lease & Ejectment	[ ] 442 Employment	[ ] 510 Motions to Vacate Sentence		[ ] 870 Taxes (U.S. Plaintiff or Defendant)	[ ] 896 Arbitration
[ ] 240 Torts to Land	[ ] 443 Housing/ Accommodations	[ ] 530 General		[ ] 871 IRS—Third Party 26 USC 7609	[ ] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
[ ] 245 Tort Product Liability	[ ] 445 Amer. w/Disabilities - Employment	[ ] 535 Death Penalty **Other:**	**IMMIGRATION**		
[ ] 290 All Other Real Property	[ ] 446 Amer. w/Disabilities - Other	[ ] 540 Mandamus & Other	[ ] 462 Naturalization Application [ ] 465 Other Immigration Actions		[ ] 950 Constitutionality of State Statutes
	[ ] 448 Education	[ ] 550 Civil Rights [ ] 555 Prison Condition [ ] 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

- [x] 1 Original Proceeding
- [ ] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation - Transfer
- [ ] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
Federal Employers' Liability Act, 45 U.S.C. §51 et seq.

Brief description of cause:
Plaintiff was injured during the course and scope of his employment with the defendant, New Jersey Transit

VII. REQUESTED IN COMPLAINT:

- [ ] CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $
Excess of $150,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: [x] Yes   [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions):
JUDGE _____   DOCKET NUMBER _____

DATE
09/22/2022

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____   AMOUNT _____   APPLYING IFP _____   JUDGE _____   MAG. JUDGE _____

JS 44 Reverse (Rev. 04/21)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROGER SOLOMON 102 Idelewild Road Levittown, PA 19057 **Plaintiff** vs. **NEW JERSEY TRANSIT RAIL** **OPERATIONS, INC.** One Penn Plaza East Newark, NJ 07105	**CIVIL ACTION NO.:** **JURY TRIAL DEMANDED**

CIVIL ACTION COMPLAINT

1.   The plaintiff herein is Roger Solomon, a citizen and resident of the State of New Jersey, residing therein at 102 Idlewild Road, Levittown, PA 19057.

2.   The defendant is a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey.

3.   This action arises under the Act of Congress, April 22, 1908, c. 149, 35 Stat. 65, and amendments thereto, U.S.C.A. Title 45, §51 et seq., and further amended by the Act of Congress, approved by the President of the United States on August 11, 1939, Chapter 685 - First Session of the 76th Congress, known and cited as "The Federal Employers' Liability Act" and under "The Federal Safety Appliances Act," Title 49, U.S.C.A., §20301, et seq.

4.   At the time and place hereinafter mentioned and for a long time prior thereto, the defendant, as a common carrier, operated trains carrying passengers, freight, express packages, baggage and foreign and domestic mail, in commerce, between the different states of the United States and its territories.

5.   At the time and place hereinafter mentioned, the acts of omission and commission,

causing the injuries to the plaintiff, were done by the defendant, its agents, servants, workmen and/or employees, acting in the course and scope of their employment with and under the control of the defendant.

6.   At the time and place hereinafter mentioned, the plaintiff and the defendant were engaged in interstate commerce between the different states of the United States and its territories.

7.   All of the property, equipment and operations involved in the incident herein referred to were owned by and under the control of the defendant, its agents, servants, workmen and/or employees.

8.   As a result of the incident herein referred to, plaintiff has suffered a loss and impairment of earnings and earning power and will suffer the same for an indefinite time in the future; has undergone great physical pain and mental anguish and will undergo the same for an indefinite time in the future; has been obliged to and will have to continue to expend large sums of money in the future in an effort to effect a cure of his injuries; has been unable to attend to his usual duties and occupation and will be unable to attend to the same for an indefinite time in the future, all to his great detriment and loss.

9.   The incident herein referred to was caused solely and exclusively by the negligence of the defendant, its agents, servants, workmen and/or employees, and was due in no manner whatsoever to any act or failure to act on the part of the plaintiff.

10.   On or about September 20, 2020 and for some time prior thereto, plaintiff was employed by the defendant, New Jersey Transit Rail Operations, Inc. as a conductor.

11.   On that date, at approximately 4:30 p.m. to 5:00 p.m., plaintiff was serving in the capacity as a rear brake on train number 5850.

12.   On the aforementioned date and at the aforementioned time, as the train was located

in the New York Penn Station, it was necessary for the plaintiff to apply a handbrake.

13.   On the aforementioned date and at the aforementioned time, as plaintiff was applying the handbrake and pulling up on the brake handle, suddenly and without any warning the brake handle froze and locked causing the plaintiff to feel immediate pain in both sides of his neck, his shoulders, and his right arm.

14.   A properly, efficiently, and correctly functioning handbrake should not freeze or lock while the handle is being used.

15.   The aforementioned accident was caused by the negligence of the defendant, it agents, servants, workman and/or employees, and was further due to its violation of the Federal Safety Appliances Act, as well as federal regulations, and was not caused by any conduct on the part of the plaintiff.

16.   The negligence of the defendant consisted of the following:

    a.   Failing to inspect the handbrake;
    b.   Failing to discover the unsafe condition of the handbrake;
    c.   Failing to maintain handbrake;
    d.   Failing to repair the handbrake;
    e.   Requiring the plaintiff to work on a railcar with a defective, malfunctioning, and inefficient handbrake;
    f.   Permitting a railcar to be used in service that had a defective, malfunctioning, and inefficiently operating handbrake;
    g.   Violating federal regulations with regards to the inspection, maintenance, repair and condition of handbrakes; and
    h.   Failing to warn plaintiff of these conditions.

17.   As a result of the aforesaid accident, plaintiff sustained injuries to his neck; injuries to the shoulders; injury to the right arm; cervicalgia; myofascial pain; cervical facet syndrome; injury to the cervical disc; and numbness of the upper extremities. The full extent of plaintiff's injuries is not presently known.

WHEREFORE, plaintiff claims of the defendant, a sum in excess of One Hundred Fifty Thousand ($150,000.00) Dollars.

COFFEY KAYE MYERS & OLLEY

BY:____/s/ Robert E. Myers_____
ROBERT E. MYERS, ESQUIRE
LAWRENCE A. KATZ, ESQUIRE
Attorneys for Plaintiff
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610-668-9800

4